REMARKS

Applicants wish to thank the Examiner for reviewing the present patent application.

I. Rejection Under 35 USC §103

The Examiner has, again, rejected claims 1-6 and 8-13 under 35 USC §103 as being unpatentable over Brown, U.S. Patent No. 6,578,763 (hereinafter, '763) in view of Maniwa et al., JP 11185164 A (hereinafter, '164). In the rejection, the Examiner continues to mention, in summary, that the '763 reference discloses the information described in claims 1-6 and 8-13. Particularly, the Examiner asserts that the '763 reference discloses all limitations of claims 1-6 and 8-13 except for the important fact that product is sold at a sale price that includes a predetermined number of refills and the formula/method described in claim 11. The Examiner relies on the '164 reference for curing the vast deficiencies of the primary reference and alleges that the '164 reference discloses product being sold at a sale price that includes a predetermined number of refills. Essentially, the Examiner has repeated the Office Action mailed October 27, 2004. In view of the above, the Examiner believes that the 35 USC §103 rejection is warranted.

Notwithstanding the Examiner's apparent position to the contrary, it is the Applicants' position, again, that the presently claimed invention is patentably distinguishable from the above-described for at least the following reasons.

As already made of record on numerous occasions, independent claim 1, is directed to a method of purchasing a consumer product comprising the steps of (a) selling a

consumer product in a package to a consumer at a point of purchase establishment, and (b) instructing the consumer to retain the package after the consumer product has been consumed and (c) providing a means for the consumer to have the package refilled with consumer product wherein the product is sold at a sale price that includes a predetermined number of refills. The invention of claim 1 is further defined by the dependent claims which claim, among other things, the type of consumer product that can be purchased, the type of establishment that can sell the consumer product, packaging types, the characteristics of the packaging, the characteristics of the consumer product, and a specific mathematical formula that satisfies the method of purchasing such that a consumer saves money while simultaneously protecting the environment.

In contrast, and again, the '763 reference merely discloses a refillable bottle that is refilled in a machine with readable indicia on a container whereby the machine dispenses a discount coupon so that the consumer can use the coupon to pay the vendor at each and every refilling. Again, the present invention, as now defined in independent claim 1, is directed to a method whereby the consumer only has to pay the vendor a single time and the single sale price includes a predetermined number of refills. Thus, the present invention is significantly more efficient and consumer friendly than the process described in the '763 reference which merely shows a method for vending a specific liquid consumer product whereby the consumer has to pay a vendor at every refill. Furthermore, there is nothing in the '763 reference that suggests the product being sold can be in form other than a liquid, and there is no teaching whatsoever in the '763 reference that even remotely suggests the product can be in the form of a concentrate. Applicants respectfully point out to the Examiner, again, that after each refilling of the container described in the '763 reference, a discount coupon is dispensed to the vendee for use at a check-out station. The process of the '763

reference requires payment at a check-out station after every refill. (Please see column 2, lines 4-10)

In an attempt to cure the vast efficiencies of the '763 reference, the Examiner relies on the '164 reference which, again, merely discloses a non-analogous sale register. The sale register of the '164 reference (i.e., abstract) apparently describes a machine that is capable of registering ". . ., the sales number of actually selling the refill specified merchandise and the refill number of refilling it for respective time bands and the means for outputting the sales number, the refill number and the service rate of the merchandise based on them."

Again, the apparatus of the '164 abstract requires the consumer to pay/go to a service counter at every refill. Nothing in the '164 abstract "cures" any of the deficiencies of the '763 reference as they relate to the presently claimed invention. In fact, the '763 reference and '164 abstract are deficient for the same reason.

In view of the above, the Examiner has not established a *prima facie* case of obviousness and the obviousness rejection should be withdrawn and rendered moot.

II. Rejection Under 35 USC §103

The Examiner has, again, rejected claim 7 under 35 USC §103 as being unpatentable over Brown (the '763 reference) in view of Maniwa et al., (the '164 abstract) and further in view of Duvall, U.S. Patent No. 5,522,428 (hereinafter '428). In the rejection, the Examiner maintains, in summary, that the '428 reference describes the limitations of claim 7 in that the predetermined number of times to refill will be less than the number of times that causes stress fractures in the package. In view of the above, the Examiner believes that the 35 USC §103 rejection to claim 7 is warranted.

Notwithstanding the Examiner's apparent position to the contrary, it is, again, the Applicants' position that the presently claimed invention is patentably distinguishable from the above-described for at least the following reasons.

As already made of record on numerous occasions, the present invention is directed to a method for purchasing a consumer product wherein the product is sold at a sale price that includes a predetermined number of refills. Independent claim 1 is further defined by claim 7 wherein the consumer product which is sold in a package is sold in a manner such that the package is suitable to be refilled a predetermined number of times and the predetermined number of times is less than the number of times that would cause stress fractures in the package. As already made of record, the '763 reference teaches away from the present invention and teaches a method for refilling a container wherein the consumer must take a coupon dispensed from a refill machine and pay a vendor at each refill. The '164 apparatus is directed to a sale register. The '428 reference, again, is merely directed to a natural gas vehicle tank life sensor and control. The combination of references relied on by the Examiner does not, even remotely, teach, suggest, or disclose the invention set forth in the presently claimed invention. This invention is one where a consumer can make a single payment and have a container refilled a predetermined number of times, ensuring that the container will not break or stress fracture during the using and refilling period. There is no motivation whatsoever to combine the teachings of a reference that are directed to a natural gas vehicle tank with a sale register and a consumer product vending apparatus.

In view of the above, Applicants respectfully request that the rejection of claim 7 be withdrawn and rendered moot.

III. Rejection Under 35 USC §103

The Examiner has, again, rejected claims 1-6 and 8-13 under 35 USC §103 as being unpatentable over Brown (the '763 reference) in view of Rosenblum, U.S. Patent No. 6,766,218 (hereinafter, '218). In the rejection, the Examiner maintains, in summary, that the '763 reference discloses all claim limitations set forth in claims 1-6 and 8-13 except for the fact that the teachings of the '763 reference do not disclose a product that is sold at a sale price that includes a predetermined number of refills. Moreover, the Examiner admits that the formula of claim 11 is not satisfied by the teachings of the '763 reference.

Nevertheless, the Examiner relies on the '218 reference for allegedly disclosing product being sold at a sale price that includes a predetermined number of refills and that satisfies the mathematical formula set forth in claim 11. In view of this, the Examiner believes the rejection is warranted.

Notwithstanding the Examiner's apparent position to the contrary, it is the Applicants' position that claims 1-6 and 8-13 are patentably distinguishable from the above-described for at least the following reasons.

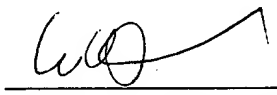
The '763 reference, again, merely describes a refillable bottle that is refilled in a machine with readable indicia on a container whereby the machine dispenses a discount coupon so that the consumer can use the coupon to pay a vendor at every refilling. Again, the '218 reference merely describes an automatic prescription drug dispenser that includes a remote dispenser, a prescription entry system and a communications network. Involved is a communication network that coordinates communications between a doctor, an insurance carrier, and a remote dispenser. The

remote dispenser stores, retrieves and labels prescription drug and over-the-counter products directly to patients to a remote automated vending machine. There is no teaching whatsoever in the '218 reference that even remotely cures the vast deficiencies of the '763 reference. Particularly, nothing in the '218 reference discloses a method for purchasing a consumer product where the product is sold at a sale price that includes a predetermined number of refills. Again, the present invention, as claimed, allows for the consumer to make one payment and then obtain a predetermined number of refills for a particular consumer product at a point of purchase establishment. The advantages of this invention are not described in the combination of references relied on by the Examiner, and the one time payment and the savings described by the formula of claim 11 are not suggested in the references relied on by the Examiner. In view of the same, it is clear that the Examiner has not established a *prima facie* case of obviousness as required under 35 USC §103. Applicants, therefore, request that the obviousness rejection be withdrawn and rendered moot.

Applicants submit that all claims of record are now in condition for allowance. Reconsideration and favorable action are earnestly solicited. Applicants also request that the Examiner contact the undersigned counsel so that the prosecution of the present patent application may be expedited and so the extreme expense of a second appeal may be avoided.

In the event the Examiner has any questions or concerns regarding the present patent application, he is kindly invited to contact the undersigned at his earliest convenience.

Respectfully submitted,



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